

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Jonathan Robert Oppenheimer, M.D.

Case No. 800-2017-029990

**Physician's and Surgeon's
Certificate No. G 87999**

Respondent

DECISION

**The attached Stipulated Surrender of License is hereby adopted as the
Decision and Order of the Medical Board of California, Department of
Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on February 14, 2018.

IT IS SO ORDERED February 7, 2018

MEDICAL BOARD OF CALIFORNIA

By:


**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of the State of California
2 JANE ZACK SIMON
State Bar No. 116564
3 Supervising Deputy Attorney General
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6 *Attorneys for Complainant*
7 *Medical Board of California*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Accusation Against:**

13 **JONATHAN ROBERT OPPENHEIMER, M.D.**

14 Physician's and Surgeon's Certificate No. G87999

Case No.: 800-2017-029990

**STIPULATED SURRENDER OF
LICENSE**

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding, that the following matters are true:

18 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical
19 Board of California. She brought this action solely in the official capacity, and is represented by
20 Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon, Supervising
21 Deputy Attorney General.

22 2. Respondent Jonathan Robert Oppenheimer, M.D. (Respondent) is representing
23 himself in this proceeding. Respondent's current address is 5405 Big East Fork Road, Franklin,
24 TN 37964.

25 3. On April 4, 2007, the Medical Board of California issued Physician's and
26 Surgeon's Certificate No. G87999 to Respondent. The certificate is delinquent, having expired
27 on January 31, 2017.

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1 4. Respondent has received, read and understands the Accusation which is presently
2 on file and pending in case number 800-2017-29990 (Accusation) a copy of which is attached as
3 Exhibit A. Respondent also has carefully read and understands the effects of this Stipulated
4 Surrender of License (Stipulation).

5 5. Respondent is fully aware of his legal rights in this matter, including the right to a
6 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
7 his own expense; the right to confront and cross-examine the witnesses against him; the right to
8 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
9 the attendance of witnesses and the production of documents; the right to reconsideration and
10 court review of an adverse decision; and all other rights accorded by the California
11 Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and
12 intelligently waives and gives up each and every right set forth above.

13 6. For the purpose of resolving the charges and allegations in the Accusation, without
14 the expense and uncertainty of further proceedings, Respondent agrees that cause exists to take
15 disciplinary action against his California physician's and surgeon's certificate. Respondent
16 wishes to surrender his California certificate at this time.

17 7. Pursuant to section 2224(b) of the Business and Professions Code, this Stipulation
18 for Surrender of License shall be subject to the approval of the Board. Respondent understands
19 and agrees that the Medical Board's staff and counsel for Complainant may communicate directly
20 with the Board regarding this Stipulation without notice to or participation by Respondent. By
21 signing this Stipulation, Respondent understands and agrees that he may not withdraw his
22 agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it.
23 In the event that this Stipulation is rejected for any reason by the Board, it will be of no force or
24 effect for either party. The Board will not be disqualified from further action in this matter by
25 virtue of its consideration of this Stipulation.

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8. Upon acceptance of this Stipulation by the Board, Respondent understands that he will no longer be permitted to practice as a physician and surgeon in California, and also agrees to surrender and cause to be delivered to the Board any license and wallet certificate in his possession before the effective date of the decision.

9. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Medical Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

10. Respondent fully understands and agrees that if he ever files an application for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for reinstatement, and Respondent must comply with all laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed.

11. Respondent understands that he may not petition for reinstatement as a physician and surgeon for a period of three (3) years from the effective date of his surrender. Information gathered in connection with Accusation number 800-2017-029990 may be considered by the Board in determining whether or not to grant the petition for reinstatement. For the purposes of the reinstatement hearing, the allegations contained in Accusation number 800-2017-029990 shall be deemed to be admitted by Respondent, and Respondent waives any and all defenses based on a claim of laches or the statute of limitations.

12. The parties understand and agree that facsimile or electronic copies of this Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have the same force and effect as the originals.

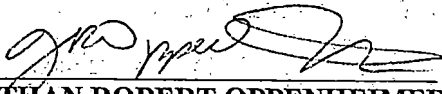
ACCEPTANCE

I have carefully read the above Stipulated Surrender of License. I enter into it freely and voluntarily and with full knowledge of its force and effect do hereby surrender my Physician and Surgeon's Certificate Number G87999 to the Medical Board of California, for its formal acceptance. By signing this Stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician

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1 and surgeon in the State of California and I also will cause to be delivered to the Board any
2 license and wallet certificate in my possession before the effective date of the decision.

3
4 DATED: 2/1/18


5 **JONATHAN ROBERT OPPENHEIMER, M.D.**
6 *Respondent*

7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License is hereby respectfully submitted for
9 consideration by the Medical Board of California.

10
11 DATED: 2/2/18

12 **XAVIER BECERRA**
13 *Attorney General of the State of California*

14 
15 **JANE ZACK SIMON**
16 *Supervising Deputy Attorney General*
17 *Attorneys for Complainant*

Exhibit A

1 XAVIER BECERRA
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2 JANE ZACK SIMON
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6 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 14, 2017
BY: Sandy Wang ANALYST

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2017-029990

11 **JONATHAN ROBERT OPPENHEIMER, M.D.**
12 1450 Elm Hill Pike
Nashville, TN 37210

A C C U S A T I O N

13
14 Physician's and Surgeon's Certificate
No. G87999

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs (Board).

22 2. On April 4, 2007, the Medical Board issued Physician's and Surgeon's Certificate
23 Number G87999 to Jonathan Robert Oppenheimer, M.D. (Respondent). The certificate is in
24 delinquent status, having expired on January 31, 2017. Respondent was previously disciplined by
25 the Board by way of a Public Letter of Reprimand issued on November 13, 2012.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

5. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

6. Section 141 of the Code provides:

(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

FACTS

7. Respondent is a pathologist who owned and operated a business called Proust-Data, Inc., d/b/a OURLab (Oppenheimer Urologic Reference Laboratory).¹ In 2012, Respondent sold OURLab to a Delaware corporation known as OPKO Health, Inc. and OURLab became a wholly owned subsidiary of OPKO. Respondent was the founder, Chief Executive Officer and Chief Medical Officer of OURLab, and after the sale, was the Chief Executive Officer of OPKO's diagnostics division.

8. In 2013, a Complaint for Damages Under the False Claims Act, 31 U.S.C.A.

¹ The principal place of business was listed as Respondent's Medical Board address of record in Nashville, Tennessee.

1 section 2729, *et. seq.* was filed against OPKO, Proust-Data, OURLab and Respondent in the
2 United States District Court for the Middle District of Tennessee.² The Complaint alleged that
3 between 2007 and 2015, Respondent and the business entities listed above submitted millions of
4 dollars in false claims for payment to the Medicare Program in violation of federal law. The
5 violations related to improper donations that OURLab and Respondent made toward electronic
6 health records systems purchased by their client physician practices, which amounted to trading
7 free computer software for patient referrals. The Complaint also alleged that Respondent
8 submitted false billings to Medicare and the federal TRICARE insurance program.

9 9. On or about May 31, 2016, Respondent and the other defendants agreed to pay
10 \$9.35 million to resolve the False Claims Complaint. Respondent and OPKO were jointly and
11 severally liable for the settlement amount. Respondent further agreed to a 5 year exclusion from
12 participation in all federal health care programs.

13 10. On May 31, 2016, the Department of Health and Human Services Office of the
14 Inspector General placed Respondent on the list of physicians excluded from participation in
15 federal health care programs.

16 11. On September 18, 2016, the Illinois Department of Financial and Professional
17 Regulation accepted the surrender of Respondent's Illinois license, in lieu of discipline, based on
18 the settlement of the False Claims Complaint.

19 12. On January 11, 2017, the Ohio Medical Board accepted the permanent revocation
20 of Respondent's Ohio license in lieu of formal disciplinary proceedings.

21 13. On January 18, 2017, the Wisconsin Medical Examining Board issued a Final
22 Decision and Order, accepting the permanent surrender of Respondent's license to practice
23 medicine in Wisconsin, also in lieu of formal disciplinary proceedings.

24 14. On February 23, 2017, the Virginia Department of Health Professions issued an
25 Order of Mandatory Suspension, based on Respondent's surrender of his Wisconsin license.

26
27 ² The Complaint was initially filed as a *qui tam* complaint by a former employee of
28 OURLab; investigation by the Department of Health and Human Services Office of Inspector
General and the United States Attorney corroborated the allegations of the Complaint. The
United States Attorney then stepped in to prosecute the action.

1 **CAUSE FOR DISCIPLINE**

2 (Action by Other Jurisdictions/Federal Agency)

3 15. Paragraphs 7 through 14 are incorporated by reference.

4 16. Respondent's conduct and the actions of the United States Department of Health
5 and Human Services, the Illinois Department of Financial and Professional Regulation, the Ohio
6 Medical Board, the Wisconsin Medical Examining Board, and the Virginia Department of Health
7 Professions, as set forth above, constitute unprofessional conduct and cause for discipline
8 pursuant to Sections 141 and/or 2305 of the Code.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Medical Board of California issue a decision:

12 1. Revoking or suspending Physician's and Surgeon's Certificate Number G87999,
13 issued to Jonathan Robert Oppenheimer, M.D.;

14 2. Revoking, suspending or denying approval of Jonathan Robert Oppenheimer, M.D.'s
15 authority to supervise physician assistants and advanced practice nurses;

16 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
17 monitoring; and

18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: December 14, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant